

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
-vs-	)	CASE NO. CR-09-191-F
	)	
DAVID GROSE,	)	
	)	
Defendant.	)	

**DEFENDANT'S REQUESTED JURY INSTRUCTIONS**

COMES NOW, David Grose through counsel, and requests that the Court give the jury instructions attached. The Defendant reserves the right to supplement the requested jury instructions at the time of the jury instruction conference, as additional instructions may be

Respectfully submitted,

*/s/ Mack K. Martin*

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**CERTIFICATE OF SERVICE**

I certify that on the Friday, February 19, 2010, I electronically transmitted the attached document to the Clerk of the Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants: Mr. Sanford C. Coats, United States Attorney and Mr. Jeb Boatman, Assistant United States Attorney.

*/s/ Mack K. Martin*

**LESSER INCLUDED OFFENSE**

Misprision of a Felony  
18 U.S.C. § 4

If you unanimously find the defendant not guilty of the offense charged in counts 1, 2 or 3 [wire fraud] of the indictment, or if, after all reasonable efforts, you are unable to agree on a verdict as to those offenses, then you must determine whether the defendant is guilty or not guilty of misprision of a felony.

As you will recall under these instructions it is the Defendant Grose's theory of defense that he acted in good faith reliance on the directives of his direct supervisor, the Chief Executive Officer of Quest. Under those instructions the "good faith" of the Defendant Grose is a complete defense to the charges in the indictment.

In that regard if you find under the evidence of this case that the Chief Executive Officer of Quest committed a crime and that the Defendant knew of that crime you may consider whether or not the Defendant is guilty or not of Misprision of a Felony. The elements of the crime of Misprision are set forth below in this instruction.

This law makes it a crime to conceal from the authorities the fact that a federal felony has been committed. Wire Fraud is a federal felony.

To find the defendant guilty of this crime you must be convinced that the government has proved each of the following beyond a reasonable doubt:

*First:* a federal felony was committed, by the Chief Executive officer of Quest;

*Second:* the defendant had knowledge of the commission of that felony;

*Third:* the defendant failed to notify an authority as soon as possible. An "authority" includes a federal judge or some other federal civil or military authority, such as a federal grand jury, Secret Service or FBI agent; and

*Fourth:* the defendant did an affirmative act, to conceal the crime.

Mere failure to report a felony is not a crime. The defendant must commit some affirmative act designed to conceal the fact that a federal felony has been committed.

If you are convinced that the government has proved all of these elements beyond a reasonable doubt, you may find the defendant guilty of the lesser included offense. If you have a reasonable doubt about any of these elements, then you must find the defendant not guilty of the lesser included offense.